



The State of New Hampshire  
**Department of Environmental Services**



**Robert R. Scott, Commissioner**

May 10, 2018

His Excellency, Governor Christopher T. Sununu  
and the Honorable Council  
State House  
Concord, New Hampshire 03301

**REQUESTED ACTION** **MAY 14 '18 PM 12:47 DAS**

Authorize the Department of Environmental Services to approve a loan agreement with the Town of Salem (VC# 177472-B001), Salem, NH in the amount not to exceed \$3,360,000 to finance water system improvements under the provisions of RSA 486:14 and N.H. Code of Administrative Rules Env-Dw 1100 et seq. effective upon Governor & Council approval. 79% Federal Funds, 21% Capital (General) Funds.

Funding is available in the accounts as follows:

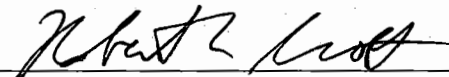
	<u>FY 2018</u>
03-44-44-441018-4789-301-500833 Dept Environmental Services, DWSRF Loans, Loans	\$2,654,400
03-44-44-441030-1556-034-500161 Dept Environmental Services, 17-228:1-VIII-B, DWSRF Match	\$705,600

**EXPLANATION**

The purpose of this loan agreement is to authorize the Town of Salem to borrow up to \$3,360,000 from the Drinking Water State Revolving Loan Fund (DWSRF) to finance water system improvements. These improvements include the replacement of water distribution main along Main Street and South Broadway as part of the sewer, water, and culvert upgrades in the Salem Depot area of Town. This project will improve reliability of the water system. The final loan amount will be based on the total DWSRF funds disbursed, and may be less than \$3,360,000. The loan interest rate may be adjusted downward if the DWSRF loan rate in effect upon project completion is less than the current rate of 1.515%.

The DWSRF is authorized by RSA 486:14 and N.H. Code of Administrative Rules Env-Dw 1100 et seq. The U. S. Environmental Protection Agency (EPA) has provided approximately \$133,549,278 to capitalize the DWSRF and the State has provided \$36,771,060 in required matching funds. There is currently a balance of \$5,301,738 in the DWSRF available for new loans. Attached is a tabulation of the DWSRF showing the effect of this loan on the funds available for loans.

We respectfully request your approval.

  
Robert R. Scott  
Commissioner

Her Excellency, Governor Christopher T. Sununu  
and the Honorable Council

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DEPARTMENT OF ENVIRONMENTAL SERVICES  
WATER DIVISION

DRINKING WATER STATE REVOLVING FUND

Supplemental information to Governor and Council request of the loan agreement(s) under RSA 486:14 and N.H. Code of Administrative Rules Env-Dw 1100 et seq. for the public water system(s) listed below.

This request will affect the balance of the loan funds as follows.

	<u>DWSRF</u>
Federal Funds	\$133,549,278
Plus 20% State Match	<u>\$36,771,060</u>
Total Funds Authorized/Available	\$170,320,338
Less Loans Previously Approved	<u>\$165,018,600</u>
Funds Available for Loans	\$5,301,738
<b>Amendment Being Requested</b>	
Town of Salem (Project#: 2051010-01)	(3,360,000)
Net Change to Loan(s)	<u>(\$3,360,000)</u>
<b>Balance Available After G &amp; C Approval</b>	<u><u>\$1,941,738</u></u>

NEW HAMPSHIRE DEPARTMENT OF ENVIRONMENTAL SERVICES  
Drinking Water State Revolving Loan Program

<u>DWSRF Fund Available For Loans</u>	<u>Amount</u>
1997 - 2008 Capitalization Grants	\$101,115,500
Plus State Match	\$20,227,460
Less Setasides	<u>(\$24,066,792)</u>
Total 1997-2006 Funds Available for Loans	<b>\$97,276,168</b>
2009 Capitalization Grant	\$8,146,000
Plus State Match	\$1,629,200
Less Setasides	<u>(\$2,525,260)</u>
Total 2009 Funds Available for Loans	<b>\$7,249,940</b>
2010 Capitalization Grant	\$13,573,000
Plus State Match	\$2,714,600
Less Setasides	<u>(\$4,712,120)</u>
Total 2010 Funds Available for Loans	<b>\$11,575,480</b>
2011 Capitalization Grant	\$9,418,000
Plus State Match	\$1,883,600
Less Setasides	<u>(\$2,919,580)</u>
Total 2011 Funds Available for Loans	<b>\$8,382,020</b>
2012 Capitalization Grant	\$8,975,000
Plus State Match	\$1,795,000
Less Setasides	<u>(\$2,782,250)</u>
Total 2012 Funds Available for Loans	<b>\$7,987,750</b>
2013 Capitalization Grant	\$8,421,000
Plus State Match	\$1,684,200
Less Setasides	<u>(\$2,610,510)</u>
Total 2013 Funds Available for Loans	<b>\$7,494,690</b>
2014 Capitalization Grant	\$8,845,000
Plus State Match	\$1,769,000
Less Setasides	<u>(\$2,741,950)</u>
Total 2014 Funds Available for Loans	<b>\$7,872,050</b>
2015 Capitalization Grant	\$8,787,000
Plus State Match	\$1,757,400
Less Setasides	<u>(\$2,723,970)</u>
Total 2015 Funds Available for Loans	<b>\$7,820,430</b>
2016 Capitalization Grant	\$8,312,000
Plus State Match	\$1,662,400
Less Setasides	<u>(\$2,576,720)</u>
Total 2016 Funds Available for Loans	<b>\$7,397,680</b>
2017 Capitalization Grant	\$8,241,000
Plus State Match	\$1,648,200
Less Setasides	<u>(\$2,625,070)</u>
Total 2017 Funds Available for Loans	<b>\$7,264,130</b>
Total 1997-2017 Funds Available for Loans	<b>\$170,320,338</b>

Last Updated: 8/3/17

STATE OF NEW HAMPSHIRE

DRINKING WATER STATE REVOLVING LOAN FUND PROGRAM

TOWN OF SALEM, NEW HAMPSHIRE

(Project No. 2051010-01)

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ORIGINAL LOAN AGREEMENT

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I. This Agreement is between the State of New Hampshire Drinking Water State Revolving Loan Fund Program (State) and the **Town of Salem, New Hampshire** (Loan Recipient) in accordance with RSA 486:14 and New Hampshire Code of Administrative Rules Env-Dw 1100 (Rules) for the purpose of financing, to the extent of the aggregate amount of funds transferred (Disbursements) to the Loan Recipient made hereunder, the **South Broadway Water Main Improvement Project** (Project) now being undertaken by the Loan Recipient. The Project is described in Exhibit A. The Loan Recipient shall abide by all of the requirements of RSA 486:14 and the Rules.

II. The State agrees to loan to the Loan Recipient, and the Loan Recipient agrees to repay to the State, in accordance with the terms of this Agreement, the principal sum of **Three Million Three Hundred Sixty Thousand and 00/100 Dollars (\$3,360,000)** (Principal Sum) or such lesser amount as shall equal the aggregate of Disbursements made hereunder by the State to the Loan Recipient. In addition to the principal sum, the Loan Recipient agrees to pay the applicable interest accrued as described in Paragraphs III, V, and VII. Federal financial assistance provided through the Drinking Water State Revolving Loan Fund Program (CFDA #66.468) may comprise all or a portion of the Principal Sum. Any Disbursement or other payment from the State to the Loan Recipient is contingent upon the availability of funds.

1 III. Disbursements shall be made on a periodic basis, as requested by the Loan Recipient, but not  
2 more frequently than monthly, subject to the approval of the amount of each Disbursement by  
3 the State. The State shall approve the amount requested if it determines that the costs covered by  
4 the request are eligible under Env-Dw 1104.01, as applicable. Interest on each Disbursement  
5 shall accrue on the outstanding principal balance from the date of the Disbursement at the rate of  
6 1% per annum computed on the basis of 30-day months and 360-day years until the date of  
7 Substantial Completion of the Project or the date of Scheduled Completion, whichever is earlier.  
8 At the option of the Loan Recipient, such interest may be paid (1) prior to the commencement of  
9 Loan repayment, (2) at the time of the first Loan repayment, or (3) by adding the charges to the  
10 outstanding principal Loan balance so long as the Loan Recipient's authority to borrow is not  
11 exceeded.

12  
13 IV. The aggregate of the Disbursements shall be consolidated by a Promissory Note (Note) of  
14 the Loan Recipient in a Supplemental Loan Agreement issued under and in accordance with the  
15 applicable provisions of this Agreement and the Municipal Finance Act, RSA 33, as amended  
16 and supplemented, including the provisions of RSA 486:14. The Note shall be substantially in  
17 the form of Exhibit B.

18  
19 V. The interest rate applicable to the Note will be **1.515%**, as determined in accordance with  
20 RSA 486:14 and Env-Dw 1100 et seq.

21  
22 VI. The Loan Recipient hereby authorizes the State to compute the payments of principal and  
23 interest on the Note. The principal shall be paid in full within **ten (10)** years from the date of the  
24 Note. Note payments shall commence within one year of the Substantial Completion date of the  
25 Project or the Scheduled Completion date of the project, whichever is earlier. The Scheduled

1 Completion date is hereby determined to be **June 1, 2020**; however, should the project  
2 experience an excusable delay, an extension may be granted by the Commissioner of the  
3 Department of Environmental Services upon request in writing by the Loan Recipient. In no  
4 event shall Note payments commence later than ten years from the effective date of this  
5 Agreement.

6  
7 VII. The Loan Recipient reserves the right to prepay, at any time and without penalty, all or any  
8 part of the outstanding principal or interest of the Note.

9  
10 VIII. In the event of a default in the full and timely remittance of any Note payment, any State  
11 Aid Grant funds payable to the Loan Recipient under RSA 486:A may be offset against and  
12 applied to the payment of any obligations that are due hereunder. The Loan Recipient agrees to  
13 be liable for all costs of collection, legal expenses, and attorney's fees incurred or paid by the  
14 State in enforcing this Agreement or in collecting any delinquent payments due hereunder.

15  
16 IX. No delay or omission on the part of the State in exercising any right hereunder shall operate  
17 as a waiver of such right or of any other right under this Agreement. A waiver on any one  
18 occasion shall not be construed as bar to any right and/or remedy on any future occasion.

19 X. The Loan Recipient agrees to comply, and to require all of its contractors to comply, with all  
20 applicable state and federal requirements contained in the Rules and applicable state and federal  
21 laws, including those specific requirements outlined in Exhibit C.

22  
23 XII. The Loan Recipient is required to develop an asset maintenance and renewal plan for the  
24 assets(s) being funded under the loan or incorporate the funded asset(s) into an existing asset

1 management plan. At a minimum the plan must include a commitment to asset management,  
2 financing and implementation strategy and an inventory of the funded asset(s).

3  
4 XIII. The Loan Recipient agrees to permit the Comptroller General of the United States, an  
5 appropriate Inspector General appointed under section 3 or 8G of the Inspector General Act of  
6 1978 (5 U.S.C. App.), or an authorized representative of either of the foregoing officials, or of  
7 the State of New Hampshire to have access to and the right to:

8  
9 (i) Examine any of the Loan Recipient's, the contractor's or any subcontractor's  
10 records  
11 that pertain to and involve transactions relating to this Agreement, the Construction  
12 Contract, the Engineering Contract or a subcontract thereunder; and

13  
14 (ii) Interview any officer or employee regarding such transactions.

15  
16 The Loan Recipient shall insert subparagraphs (i). and (ii). in the Construction Contract and  
17 require the Contractor to insert subparagraphs (i). and (ii). in all subcontracts thereunder.

18  
19 XIV. The effective date of this Agreement shall be the date of its approval by the Governor and  
20 Executive Council. This Agreement may be amended, waived, or discharged only by a written  
21 instrument signed by the parties hereto and only after approval of such amendment, waiver, or  
22 discharge by the Governor and Executive Council.

23  
24 XV. This Agreement shall be construed in accordance with the laws of the State of New  
25 Hampshire and is binding upon and inures to the benefit of the parties and their respective

1 successors. The parties hereto do not intend to benefit any third parties and, consequently, the  
2 Agreement shall not be construed to confer any such benefit.


3  
4 XVI. The Loan Recipient acknowledges that by accepting the Loan it will be a sub-recipient of  
5 federal financial assistance and, as such, subject to requirements of the federal Single Audit Act  
6 and subsequent amendments (SAA). The Loan Recipient further acknowledges that, if the Loan  
7 Recipient expends more than the required threshold in federal financial assistance from all  
8 sources in any fiscal year, it must perform an SAA audit in accordance with the requirements of  
9 Office of Management and Budget Circular A-133. In that event, the Loan Recipient shall  
10 provide the State with a copy of the SAA audit report within nine months of the end of the audit  
11 period.

12  
13 XVIII. This Agreement, which may be executed in a number of counterparts, each of which shall  
14 be deemed an original, constitutes the entire agreement and understanding between the parties  
15 and supersedes all prior agreements and understandings relating thereto. Nothing herein shall be  
16 construed as a waiver of sovereign immunity, such immunity being hereby specifically reserved.

17  
18  
19 STATE OF NEW HAMPSHIRE by:

TOWN OF SALEM, NEW HAMPSHIRE by:

20  11 May 18  
Robert R. Scott Date

 5/2/18  
Christopher Dillon Date

21 Commissioner  
22 Department of Environmental Services

Town Manager  
Town of Salem

23  
24 This Agreement was approved by Governor and Executive Council on \_\_\_\_\_  
as Item No. \_\_\_\_\_



**E X H I B I T A**

**STATE OF NEW HAMPSHIRE  
DRINKING WATER STATE REVOLVING LOAN FUND PROGRAM**

**PROJECT DESCRIPTION**

The **Town of Salem** has applied for a Loan to be used for water system improvements including replacement of approximately 8,000 linear feet of water distribution main along Main Street and South Broadway.

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1 **EXHIBIT B**

2 **STATE OF NEW HAMPSHIRE**  
3 **DRINKING WATER STATE REVOLVING LOAN FUND PROGRAM**

4 **PROMISSORY NOTE AND REPAYMENT SCHEDULE**

5  
6 The **Town of Salem, New Hampshire** (Loan Recipient) promises to pay to the Treasurer  
7 of the State of New Hampshire the principal sum of \_\_\_\_\_  
8 Dollars (\_\_\_\_\_) in installments on (**Month, Day**) in each year as set forth below, with  
9 interest on the entire unpaid balance payable on the first principal payment date and annually,  
10 thereafter, at the rate of \_\_\_\_% per annum, computed on the basis of 30-day months and 360-  
11 day years, in the respective years set forth below.

12 REPAYMENT SCHEDULE

13 Payment Date Principal Payment Interest Payment Total Payment

14 1  
15 2  
16 3  
17 4  
18 5  
19 6  
20 7  
21 8  
22 9  
23 10  
24

1 This Promissory Note (Note) is issued under and by virtue of the New Hampshire  
2 Municipal Finance Act, an agreement duly entered into by the Loan Recipient and the Drinking  
3 Water State Revolving Loan Fund Program, and is issued for the purpose of financing the cost of  
4 the Project as described in Exhibit A of the Supplemental Loan Agreement (Agreement).

5  
6 The Loan Recipient reserves the right to prepay, at any time and without penalty, all or  
7 any part of the outstanding principal or interest on this Note.

8  
9 The terms and provisions of the Agreement are hereby incorporated in and made a part of  
10 this Note to the same extent as if said terms and provisions were set forth in full herein.

11  
12 It is hereby certified and recited that all acts, conditions, and things required to be done  
13 precedent to and in the issuing of this Note have been done, have happened, and have been  
14 performed in regular and due form and, for the payment hereof when due, the full faith and credit  
15 of the Loan Recipient are hereby irrevocably pledged.

16  
17 IN WITNESS whereof the Loan Recipient has caused this Note to be signed by its Town  
18 Manager on the date below.

19  
20 TOWN OF SALEM, NEW HAMPSHIRE by:

21 \_\_\_\_\_  
22 Christopher Dillon, Town Manager  
Town of Salem

\_\_\_\_\_  
Date

(Seal)

1 **EXHIBIT C**

2 **STATE OF NEW HAMPSHIRE**  
3 **DRINKING WATER STATE REVOLVING LOAN FUND PROGRAM**

4 **FEDERAL REQUIREMENTS**

5 **DUNS Number:** The Loan Recipient must obtain a Data Universal Numbering System (DUNS) number.

6 The federal government has adopted the use of DUNS numbers to track how federal grant money is  
7 allocated. DUNS numbers identify your organization. A DUNS number may be obtained by visiting  
8 <http://fedgov.dnb.com/webform/>.

9  
10 **SIGNAGE REQUIREMENT:** The Loan Recipient must communicate to the public that EPA funds are  
11 contributing to the project by constructing a sign in accordance with EPA Memo SRF 15-02. The type  
12 and location of the sign shall be mutually agreed upon between the Loan Recipient and NHDES. The  
13 Loan Recipient shall maintain the sign throughout the duration of the project.

14  
15 **WAGE RATE REQUIREMENTS (DAVIS-BACON):** Davis-Bacon (DB) prevailing wage  
16 requirements apply to the Project in accordance with the federal fiscal year (FY) 2014 Consolidated  
17 Appropriations Act (P.L. 113-76). The Loan Recipient shall insert in full in any contract in excess of  
18 \$2,000 which is entered into for Project construction the standard Davis-Bacon contract clause as  
19 specified by 29 CFR §5.5(a). The Loan Recipient shall obtain the wage determination for the locality in  
20 which a covered activity subject to DB will take place prior to issuing requests for bids, proposals, quotes  
21 or other methods for soliciting contracts (solicitation) for activities subject to DB. These wage  
22 determinations shall be incorporated into solicitations and any subsequent contracts. Prime contracts  
23 must contain a provision requiring that subcontractors follow the wage determination incorporated into  
24 the prime contract.

1 **AMERICAN IRON AND STEEL (AIS):** The Loan Recipient agrees to comply with Section 436 of the  
2 Consolidated Appropriations Act, 2014 (P.L. 113-76), which requires that all of the iron and steel  
3 products used in the Project are to be produced in the United States (“American Iron and Steel  
4 Requirement”) unless (i) the Loan Recipient has requested and obtained a waiver from the Environmental  
5 Protection Agency pertaining to the Project or (ii) the State has otherwise advised the Participant in  
6 writing that the American Iron and Steel Requirement is not applicable to the Project. The Loan  
7 Recipient further agrees to maintain records documenting compliance with the American Iron and Steel  
8 Requirement, and to provide records and certifications to the State upon request.

9  
10 **GENERALLY ACCEPTED ACCOUNTING PROCEDURES:** The Loan Recipient shall maintain  
11 project accounts in accordance with the Generally Accepted Accounting Principles (GAAP), including  
12 standards relating to the reporting of infrastructure assets as issued by the Governmental Accounting  
13 Standards Board (GASB). The full text of Governmental Accounting Reporting Standards is available  
14 through the GASB website at: <http://www.gasb.org>

15  
16 **DISADVANTAGED BUSINESS ENTERPRISE (DBE):** Pursuant to 40 CFR, Section 33.301, the  
17 Loan Recipient shall make good faith efforts to utilize small, minority and women’s business enterprises  
18 whenever procuring construction, equipment, services and supplies under an EPA financial assistance  
19 agreement, and shall require that prime contractors also comply. Records documenting compliance with  
20 the six good faith efforts shall be retained.

21  
22 **EXCLUDED PARTIES LIST SYSTEMS (EPLS):** The Loan Recipient shall not knowingly award a  
23 construction contract to a contractor which has been debarred or suspended by the federal government.  
24 The Loan Recipient or its agent shall compare the names of contractors who have bid on the project

1 against the searchable list in the federal “Excluded Parties List System” (EPLS) database, which can be  
2 found at <https://www.sam.gov/portal/SAM/#1>.

3

4 **SUPER CROSS-CUTTERS:**

5 -Title VI of the Civil Rights Act

6 -Section 13 of the Federal Water Pollution Control Act Amendments of 1972

7 -Section 504 of the Rehabilitation Act of 1973

8 -The Age Discrimination Act of 1975

9 -Equal Employment Opportunity requirements (Executive Order 11246)